

## **AMESBURY CONSERVATION COMMISSION**

**MONDAY, DECEMBER 1, 2014 – 6:30 P.M.**

**CITY HALL AUDITORIUM – 62 FRIEND STREET.**

**MEETING CALLED TO ORDER AT 6:38 P.M.**

**PRESENT: Kinsey Boehl, Alan Corey, Michael Bik, Suzanne Egan, Steve Langlois.**

**ABSENT: NONE**

**ALSO PRESENT: John Lopez, Agent; Paul Bibaud, Recording Secretary.**

**MINUTES: OCT. 6, 2014 - APPROVED AS PRESENTED**

**(MOTION BY MICHAEL BIK, SECONDED BY KINSEY BOEHL).**

### **BRIEFING: WOODSOM FARM WETLANDS DELINEATION (AMESBURY SOCCER ASSOCIATION)**

**John Lopez:** This concerns a wetlands delineation proposed by the Amesbury Soccer Association. The applicant from the Amesbury Soccer Association is present, as is the director of community and economic development for the city of Amesbury.

**Bill Scott, Director, Community and Economic Development.** You have in front of you the preliminary schedule by the soccer association and aerial photograph and a more detailed schedule. I just wanted to give the commission a heads up as to the application. Right now, we are working with the agent on determining the wetlands lines. The soccer association has already delineated that. John will send out the commission's consultant to confirm these lines. One of the key aspects of this is there has been an extensive process to get through a lease and create the relationship between the city and the soccer association. That was about a 5 month process. All the issues of use have been vetted. They will be going to the PLB as per the schedule. What we want to do is move forward with the ConCom so that they can begin their process, in terms of final plans, sometime in the summer.

**Margaret McCarthy, Secretary, Amesbury Soccer Association, 2 Democracy Drive:**

We are looking to file in January or February, depending on when the city's consultant is done delineating the line. We might have to go out there and pick up some additional flags to supplement what our wetlands scientist has already delineated. We've provided John Lopez with a preliminary layout showing erosion control and the wetlands flags. Really what we're doing is introducing the commission to this project. When we were negotiating the lease boundary with the city, we tried to make sure that the area that we were looking at was well outside of the wetlands. Our proposed area does come in within the 100 foot a little bit, but not much. We are planning on natural fields at this point. No structures or anything like that. We are in the draft design phase at this point. We'll be reaching out through subsequent meetings with filings as appropriate.

**Steve Langlois:** We look forward to seeing you when you bring forward the plans for the NOI. Thank you.

### **ENFORCEMENT ORDER – 56 South Hunt Road (Tough Mudder Incorporated)**

**John Lopez:** This is in reference to an enforcement order issued by ConCom for activities located on a closed Waste Management landfill. In the enforcement order, various time frames were stipulated for the submission of a restoration plan. Also, the applicant with the

representative from TOUGH MUDDER was to go out, delineate the wetlands. To date, the responsible party has worked diligently to meet these timeframes.

**Ann Martin, with LEC Environmental Consultants, Director of Ecological Services:**

With me tonight from TOUGH MUDDER is Brian Von Ankin, and Ruth Sillman from Nixon PB, legal counsel for TOUGH MUDDER. The enforcement order had several requirements. The first three were just administrative, to retain a wetland scientist, gain access permission and provide the commission with that information. We provided that within the time frames. Then LEC went out and did a field evaluation. We attempted to FEDEX you these reports, but instead we retrieved them from the box earlier today and I brought them with me and I'll pass them out and we'll go through them. I realize you haven't had a chance to look at this. I will talk you through this report, talk you through the plan that we have attached of the field work that we did, and then if the ConCom wants to make some decisions on how to move forward, that is fine with us. If you need time to read and process this, we can return to your next meeting.

Attachment C is the 11 by 17 plan that I'm generally going to speak from this evening. This is a 2008 aerial overlay. We provided the mapping of the field work we did in both 2008 and a 2013 aerial. I'll explain why we did that in a while. Myself and another staff person went out with a Tremble GPS unit. In the upper right hand corner, you'll see several colors of orange and several shapes. In that upper right corner is the area where the work activity occurred. The darkest orangey brown, there are three excavation areas. The legend on the bottom that explains this. We show the limit of any type of ground disturbance that we observed, basically showing several different layers of the work activity that occurred that was referenced in the enforcement. Our field trip showed us a previously altered, man made area, sand and gravel, some of it backfilled with a lot of invasive species. The enforcement order basically told us to "come and tell us what is there." So we have not submitted any plans on how to mitigate this. I anticipate that the next step for ConCom is to say "put together a plan, bring it to you, as a draft, get comments / make changes to it, to make it a finalized plan. Then we'd implement the plan in the field in spring. The benefit of remediating from 2008 to 2013 is, when I look at the 2013 version, I have difficulty making the connection that the hillside seep is actually bordering. But knowing how it was in 2008, I was not about to come before you and say "nothing was altered, it was all fine." Because looking at the series of the aerials, I know that that is not true. Could the area have been altered and maybe the patterns weren't as clear in 2013, that could be it. But it also could just be the image, the time, maybe it wasn't as wet as it was in 2008, so the channels didn't pop up. I'm going with 2008 because I think it most accurately tells the story that I can't see at this point.

**John Lopez:** If the ConCom feels that is the appropriate way to go. I think that would be the necessary next step. Procedurally, we would modify the enforcement order to require a draft restoration plan, pursuant to the 2008 recommendations be submitted to an agreed upon date. We have holidays coming up, so I don't know how much we'll get done between now and January, I don't expect anything being implemented prior to the spring, probably April 15 or so. It'd be nice to have something in place by then. I would say no later than our March meeting for the approval, which would mean no later than the Feb. meeting for the plan to be presented to ConCom.

**Ann Martin:** We'll definitely have something submitted in January, for you to have something in advance in time for a February meeting.

**John Lopez:** In reviewing the 2015 meeting schedule, the Feb. 2 meeting has an associated deadline of Jan. 12. The March 2 meeting has a deadline of Feb. 9. Those two seem to be the preferred dates. The Feb. date is optimal, if that is possible.

**Ann Martin:** The Feb. date is optimal, as well. If the commission wants changes made, and this doesn't get closed out in February, then it will be closed out in March. Ultimately, executing the work in the field is going to be weather related. I prefer getting resolution sooner rather than later.

**John Lopez:** In that case, the enforcement order would be modified to reflect the dates of the draft restoration plan submitted pursuant to the 2008 plan by January 12, to be heard by the commission at the Feb. 2 meeting.

**Motion by Suzanne Egan of "so moved." Motion was seconded by Michael Bik. AIF.**

#### **ENFORCEMENT ORDER – 12 South Hunt Road (Amesbury Land Associates)**

**John Lopez:** This was an enforcement order issued to Amesbury Land Associates for activities pursuant to a race in August. The applicant has been very diligent in meeting deadlines. The applicant's representative is here to explain.

**Mary Rimmer, from Rimmer Environmental Consulting:** With me here is legal counsel for Amesbury Land Associates, Walter Akin, and also Adam Ruttenberg, representing Event Partners, who is the entity that operates activities at the Sports Park.

We received a similar enforcement order requiring assessment of impacts from about 4 ½ miles of trails where the Spartan race took place on the property. There are several different property owners that are involved in this enforcement action. We were delayed in getting out into the field to conduct our assessments to ensure to get permission to access all these private properties, but we were able to do that, and conducted three days of field assessments in November, and we GPS located all areas where there were wetlands or buffer zones adjacent to the trail system. We used the Spartan Race Trail as a guide for which trails to evaluate, since there are a number of trails that network this entire area. Some areas have debris that can be manually cleared out, such as tires, limbs. Fill material is also close by and could be put back on the banks and get them re-established with a few plantings put in. That can be repaired fairly easily. Most of the other areas with impact had to do with either trails being overly rutted by vehicle tracks or by heavy pedestrian usage or erosion. Many of those will repair on their own without further intervention. Some of them may require minor grading, raking or smoothing. We want to minimize the amount of heavy equipment that we bring onto the site, because most of the area is conservation land with lots of it in a natural state. We don't want any non-native seed stock introduced, especially in this Merrimac Conservation area, it is really a nice, pristine area. There is an interest to get some resolution on what restoration on what restoration measures are going to be required asap. There is some interest in the property, and we want to try to accommodate as much as we can the attorney's concerns for a speedy resolution, so we can get a handle on what level of effort we need for resolving the enforcement. Perhaps Adam or Warren wish to speak on that?

**Suzanne Egan:** Have you determined what work was actually done by the entity that did the work on the property? That is what I'd be curious about. You said some of the damage to streams may have been caused just by traffic. So I would think you could find out how this occurred.

**Mary Rimmer:** For the most part, we can tell whether it was regular pedestrian use vs. hundreds and hundreds of people crossing in a single area. So there really just 3-4 main areas of concern, and there's probably another 6 or 8 that are of less concern, and most of those will probably repair themselves without a lot of further intervention. I have photographs of each of those areas that are with the report. We'd like to provide you with one complete report that includes the

assessment of impacts, which I now have, but also recommendations for each of those areas, whether to leave it alone or exactly what measures we want to try to use for each of those.

**Warren Agin, Chapter 11 Trustee for Amesbury Land Associates Inc:** Just to remind the commission of the parties in this particular matter, we have Amesbury Land Associates Inc was the entity that owns the real estate at Amesbury Sports Park, Event Partners LLC is the company that operates Amesbury Sports Park, those two companies prior to this year were owned and operated by a Mary Carroll Fowler and Kevin Jock. So the races that had occurred at this facility, including the Spartan Race, had been arranged by them when they were operating those companies. The Spartan Race in particular was under contract with Event Partners, LLC.

Earlier this year, those two companies filed Chapter 11 bankruptcies. Chapter 11 Trustees were put into place to manage them, and I am the trustee for Amesbury Land Associates Inc. Stuart Grossman is the Chapter 11 Trustee for Event Partners LLC, an attorney from his office is with us tonight. We've been trying to resolve these issues that have come off. Mary Carroll Fowler and Kevin Jock are no longer associated with either company. They were let go from Event Partners LLC earlier this year. Last time I was here, we were in the process of engaging somebody. Event Partners LLC has engaged Rimmer Environmental and her report is said to be almost done. We did want input from your agent before finalizing the recommendations to get some ideas as to what your thoughts are on them. So the other news re: chapter 11 process, Mr. Dipple is a former owner who is owed a lot of money and who has agreed to re-acquire the Sports Park in order to keep it running through the winter for activities on the hill to continue. This is a good thing for the Chapter 11 standpoint for us, and a good thing from a creditor's standpoint, and it will return operation of these two with a real business man who has shown the ability to operate the businesses responsibly. The one catch is, we need to close by Dec. 15, because for the deal to work, he needs to be able to start tubing operations for the Christmas season. So it is a very short time period. One barrier to doing a sale is the fact that we have the remediation order in place against Amesbury Land Associates Inc. Your order, in addition to the parts we're complying with right now, we're getting the report coming with recommendations involving Ms. Rimmer. You have a Cease and Desist portion to it, against both entities and Spartan Race basically not to allow races like this, which no one has an issue with. Then the remediation portion which is going in and doing the work, and it does sound like work will be needed to be done. The cost will not be great, but it is more than Amesbury Land Associates has, because we have no funds because the source would be rent from Event Partners, and they have not been financially able to pay rent. Event Partners has some money, but even with the sale, it won't have a lot of excess funds. So if we can sell to Mr. Dipple, that deal contemplates having some money set aside for dealing with these kinds of issues, if we can find some money from other parties or players, it will probably get us all the way to being able to remediate, but the existence of the remediation order on the record against Amesbury Land Associates Inc. is a problem for us, because it will hold up and prevent the sale. You may also know that I, on advice of counsel, have filed a lawsuit in state court appealing the order as opposed to Amesbury Land Associates Inc. because my counsel advised me that it simply was outside of this commission's jurisdiction. I understand your need to take action to make sure this gets fixed. I also understand the complex situation understanding who the actors really were. But my counsel advised me this way, and I needed to do it to make sure I had the ability to eventually liquidate the property and do what I need to do as a trustee. I would mention that the Cease and Desist portion of this order is not an issue for us. It is just a remediation portion, because it affects the ability to sell. The rest



of the order, the requirement to do the reports, to come here and talk to you, to refrain from further activity on the site are not a concern.

**Suzanne Egan:** So if you're saying that your client are not responsible for doing that remediation, and that's what you filed the lawsuit against the commission regarding right? Disputing whether you are the proper party to be named to do the remediation?

**Warren Agin:** Breaking it down, Amesbury Land Sports Park owns the real estate, as the landlord. None of these problem areas are on it's land. It didn't take any of the actions technically that caused any of these problems. They are just the landlord. There is a lack of jurisdiction over it for this. We do want to resolve the problem,

**Suzanne Egan:** Who are you saying is the responsible party?

**Warren Agin:** I don't think finger pointing is helpful. You can blame the former owners who lined up these races. Spartan ran the race. Looking at these pictures, there's a lot of evidence that there has been other things that has been going on for awhile, back in those woods. One of Mary's photos shows the ground covered with loose leaves. You can see ATV tracks where there are no leaves. So it is clear that ATVs have run in there recently, well after all this started. There are multiple entry points into this whole area. There's a lot of stuff going on in those wetlands that has nothing to do with any of these parties. Stream diversion is evident in photos. That is clearly not ATVs. Areas have damage done from people losing their shoes in the mud and leaving them there. That is clearly not ATV people, but I have no idea whether those things happened in August in the Spartan Race or in some other race.

**Steve Langlois:** From a business position, you're saying the remediation process of all this interferes or includes Amesbury Sports Park in some way so that the business is not connected to this?

**Warren Agin:** Not exactly. When you issue an enforcement order against a land owner, that enforcement order runs with the land once recorded. I don't think your enforcement order has been recorded yet, but I haven't checked recently. The fact that it could be recorded, and the fact that some third party who wants to buy the land and has no connection with any of this will be open to liability, so it makes the land unsalable. As a bankruptcy trustee, I have a situation where I am on a very short time line to do something with the property. I can't lease it, because I have a tenant who can't operate it. What I need to do as a trustee is to sell it. I can't sell it while the order is there.

**Michael Bik:** So you're saying in the enforcement order that we have done, you want us to lift the enforcement order so that you can sell the property?

**Warren Agin:** What I would ask specifically is, the bigger problem that I face as trustee, is...

**Michael Bik:** Legally, can we lift an enforcement order without even having all that work done?

**Warren Ekin:** With respect to Amesbury Land Associates, Inc., and only that, what would work for my entity is having the remediation requirement lifted, because the rest of the enforcement order is stuff we are right now complying with. Event Partners has hired Ms. Rimmer, in the Cease and Desist Order, which is not to participate in these kinds of activities in the future, which I don't think will cause a problem with sale, because this is clearly improper behavior, it shouldn't have happened, and no respectable buyer will have a concern with the portion of the order that says you have to refrain from this kind of conduct.

**Steve Langlois:** Have you formally requested that?

**Warren Ekin:** Yes we did, prior to the prior meeting, and we have a letter stating so. While I had asked for relief, I don't think I made the specific request, especially since we filed the

appeal, that we can drop the appeal if we have the remediation portion lifted as with respect to Amesbury Land Associates, Inc. So I am saying that now.

**Suzanne Egan:** I would just suggest that the commission has issued an enforcement order, and we have specific items in that enforcement order, and we had a discussion as to why we were going to issue that. Since that time, an appeal has been filed in court and the commission has been served, so it is pending, then that would be something that we, as a commission, would be considering now, but to be considered by our legal counsel within that context, or somebody who could advise ConCom as to whether or not our enforcement action was proper. But that is not necessarily appropriate for right now, because what we had decided was to issue it to get the work done, and hold all parties responsible, because the landlord received money in the lease agreement, and therefore had some responsibility in that context. That is what we had decided earlier.

**Warren Ekin:** I recall that discussion from the last meeting, but I would point out that Amesbury Land Associates was not actually getting rent during 2014 from Event Partners, aside from a few thousand dollars that was a pass through to make some court order payments to Mr. Dipple. In Aug. of 2014, Amesbury Land Associates was not getting rent from Event Partners.

**Suzanne Egan:** But they own the property and I assume they gave permission for the event to occur on their property?

**Warren Ekin:** No, there was no communication about the event. The first time I heard about this particular event, I was a trustee for Amesbury Land Associates. With the Spartan Race, I think it was when I got called up and they said “did you hear about the problem with the Spartan Race?” With Tough Mudder, it was shortly before when I was contacted by the counsel for Ms. Fowler and Mr. Jock, asking if I would assent to them doing it after Event Partners had told them not to. We did not know about this.

**Steve Langlois:** Thank you for explaining that. There is no way we are going to divulge a decision on this in this format.

**Warren Ekin:** I understand that. One other thing, one of the suggestions in dealing with this deadline we had was that perhaps, if we have the report in within a few days, whether it is possible to have some sort of guidance from you as to what you might be able to do going forward that might help us and Event Partners as well, obtain a sale. Because it is one of the things that we can do to free up some funds to actually do the remediation. Perhaps there could be a special meeting, or something like that?

**Suzanne Egan:** So you don’t have any type of plan prepared at this point, or any notion as to what that would involve?

**Mary Rimmer:** We do. What I’d like to be able to do is go over them with John, get some agreement on the measures that need to be taken, that way we can get some cost estimates for doing the work, then we’ll know before the fifteenth what kind of an economic burden it will be to undertake the restoration. But ideally we’d like to see an agreement on that before Dec. 15. That way we can resolve it.

**John Lopez:** So that would necessitate a special meeting.

**Mary Rimmer:** Unless the ConCom chooses to delegate a representative to act on its behalf.

**Suzanne Egan:** So you’re asking for is a delegation to the agent that he can release your Amesbury Land Associates upon if you provide a remediation plan for the land that is sufficient, that meets his requirements?

**Mary Rimmer:** I’m not sure about any release of any party. I’m just a wetland scientist, so I can’t answer to that.

**Warren Ekin:** I think that would work very well for Amesbury Land Associates. If there is a further delegation that can be made to help him provide guidance to Event Partners, LLC and anybody else that may be involved in this process, as to what actually will need to be done to resolve the problems would also be helpful.

**Steve Langlois:** I just want to remind everyone that this whole conversation started with me just asking to understand, not to necessarily let you know what we were thinking about it. All we're looking for is knowledge. I don't want anyone in this room to think we're ready to make a decision as to let this go or whatever. This is just for knowledge.

**Warren Ekin:** I understand.

**John Lopez:** I'm confused, so if you could clarify: if events were to unfold the way you just described, how would that alleviate the enforcement order by Dec. 15?

**Adam Ruttenberg, attorney representing Stuart Grossman, my law partner, as Chapter 11 trustee of Event Partners, LLC:** I think I can make a critical point here: what is potentially stopping a sale is that the buyer doesn't know if he'll be tarred with remediation costs that will go through the roof and blow everything up. So the critical thing that can happen between now and Dec. 15 would be some sort of acceptance of a plan that does X,Y,Z and W, and then you know that, if you do X,Y,Z and W, you are happy, and you can figure X,Y,Z and W costs, then ...

**Steve Langlois:** That's not going to happen by Dec. 15.

**Adam Ruttenberg:** At least get a plan that says these are the things that needs to be done.

**Steve Langlois:** That makes me realize that it is unfortunate that you have a Dec. 15 date, but I don't think we'll be able to help you with it. Public notice has to be in the newspaper for 5 days.

**Suzanne Egan:** I don't want to belabor any point. If what you're looking for is certainty, essentially...it sounds like that is what you are looking for, in terms of what has to be done or what activity has to occur...you are looking for a finite set plan as to the liability in terms of this enforcement order. So I can see that we could delegate to John the ability to review the plan, to see if it is consistent with the violations that are the basis for the enforcement order, and do that by Dec. 15.

**Kinsey Boehl:** The remediation plan is open for third party revue, also, right?

**John Lopez:** No, not on an enforcement order. But I think that I certainly could work with following commissioner Egan's line of thought, work with the applicant's representative and provide guidance if the ConCom delegates the authority to me. Then, at the Jan. 5 meeting, I can come back before ConCom and recommend an approval of the plan, or of the plan as modified. I think that would work. Would that provide the applicant with certainty?

**Adam Ruttenberg:** It wouldn't provide certainty, but knowing by Dec. 15 that the ConCom is going to recommend something, that is a reasonable thing to have.

**John Lopez:** I can do it by Dec. 15. If the ConCom feels this is appropriate, I can make myself available to Ms. Rimmer at her earliest convenience.

**Steve Langlois:** I don't like to see anyone lose money, but I am not going to see our process get moved around. We can vote on it, that is fine. But Jan. 15, and we know what is going on, every time you rush this stuff, something goes missing and I'm just not into it.

**John Lopez:** I believe there is also counsel for Spartan here tonight.

**Amy Zucharello, attorney representing Mr. Ted Dipple:** As the trustees counsel has described, we are new to this process in that we are coming into a problem that predates our interest in purchasing the property. The problem that we have is that Dec. 15 is not an arbitrary date for us. It is a very important date, because it is really what we consider the latest date that

marks the beginning of the snow tubing season at Amesbury Sports Park facility. What our proposal to purchase the property does, and has been filed with the court and fully disclosed, and the commission should actually received notice of that, is providing a cash infusion to both of the debtors estates. So, in addition to being accommodating, and I hear Mr. Chairman that he doesn't want anyone to lose money, there is a very significant reason to find a way to have the property transferred to this third party buyer, who has nothing to do with the infractions that may or may not have occurred on this land due to former ownership. But this is a way to make cash available to fund the remediation. Granted, Spartan Race may also have some responsibility, and there may be other parties who are ultimately responsible, but you're looking at 2 bankruptcy trustees who, at the end of the day, may pull out the insides of their pockets and say "we hear you, we know this needs to get done, but there is no money." The only way there will be money is if there is a way to liquidate the land asset. We provide that way to liquidate that land asset. The reason again, is to capture the value that we can capture by operating snow tubing in the winter season. Will be interested in purchasing this property in the spring? Maybe or maybe not, but whatever the price we'll pay is, will take into account all the lost revenues that we won't be able to capture in the tubing season. So ultimately, the reason to find a way to make this work, if that wasn't clear from the other trustees, is that this is the cash that is desperately needed in order to **Amy Zucharello:** The proposal that we have made brings cash into both estates, and specifically earmarks an amount of that cash in order to address the expenses of remediation. In terms of who the new buyer is, Mr. Dipple is a former owner of this property. Under his ownership, there were no races conducted on these neighboring fields. There were no issues like this.

**Steve Langlois:** We can go on all night. This is a tough situation for us to grasp. You have Tough Mudder who has come before us, and they are the ones that are actually proposing to do all the work. Who is paying for that? An abutter on their end. So now you have another end of the property that got messed up. The people who previously owned this cannot afford to pay for it.

**Amy Zucharello:** Spartan can presumably afford to pay for it. Spartan is the outfit that ran these races. You look to Tough Mudder for the race that...

**Steve Langlois:** So why are you worried about Amesbury Sports Park?

**Amy Zucharello:** Because the enforcement order has been, in this instance, different from what I assume is the case for...

**Steve Langlois:** So Amesbury Sports Park doesn't have to spend any money, just Spartan and Tough Mudder?

**Amy Zucharello:** First of all, it is Amesbury Land Associates. All they did was own land. They don't have any employees...

**Suzanne Egan:** If you think there is a way to have this resolved so your sale can go through by Dec. 15, my suggestion is to provide the commission with that path forward. If you think there is something you can propose to us that specifically says that will provide the necessary amount of certainty that you need, then I suggest you do that tonight...not just verbally but in writing, that you can give to the ConCom so we can at least consider it. But we can't sit here tonight and consider these issues without something before us, and we don't have that before us.

**Amy Zucharello:** May I ask whether the ConCom would be receptive to the suggestion that Mr. Ekin made earlier that the enforcement order be modified to remove Amesbury Land Associates on the condition that Event Partners assume responsibility?

**Suzanne Egan:** I don't think that is necessarily the path forward tonight, and it would be a decision of the commission to have some delegation of authority to the agent, and that is what I



would suggest. But I don't think we're going to modify an enforcement order tonight. If we have something before us, that we can consider, that is concrete that you are asking us to do, other than modifying that enforcement order, we can do that. If everyone is willing, we can table this to the end of tonight's meeting. They can work on it and return when all other items have been completed in tonight's meeting.

**Amy Zucharello:** I do have recommendations for each of those 12 areas. I can provide them to John now, in draft form.

**Suzanne Egan:** So if we continue this to the end of tonight's meeting, we can hear the rest at that time.

**Steve Langlois:** Is there any reason why this wasn't presented a month ago?

**Amy Zucharello:** The bankruptcy court had to approve my retention, and then I had to get permission for access to the property from all of the 7 parties, which took awhile to negotiate and understand what we were doing on each of those properties. Some of them had no idea that there even was an issue on their property.

**Steve Langlois:** If you wish to return after the meeting, we will keep the hearing open.

**Chantal Bill, Boston, Ma. on behalf of Spartan Race Inc.:** I am their in house counsel. We are here today to follow up on the paperwork that we submitted to ConCom before the meeting tonight. We indicated the contract terms and the relationship we had with Event Partners. Quite honestly, we don't want to be standing here holding the bag while this argument is going on. We paid over \$9000 in a cash payment less than a week after the race. We worked with the Event Partners representative at the time. She hired a third party remediation company of her choosing to go through and remediate areas so that, per our contract, we could put the property in the place it was when we started the race. So we were bound to return it to its pre-race condition which we did. We paid in full for that. She signed off on that a week after the race. So we are here today as a violator under the amended order, we were not part of the original order. It's a situation where we have heard most of this information for the first time this evening, despite the fact that we requested to be involved and determine what is going on here. So again, we want to work with ConCom to make sure a sale can happen and make sure that what needs to happen does happen, but we need to be included in that. The reality is, per our contract terms that we contracted with these entities, we did remediate to pre-race condition. You've heard many people say that there have been ATVs after the race, that there have been other events post the Spartan Race Events, so originally in our documentation, we asked to be removed from the order.. I know that can't be done today. We'd like to work with ConCom to determine why we are on this order when we did pay to remediate the property.

**Kinsey Boehl:** Did you in any way document the pre-condition of the properties?

**Chantal Bill:** Our race director, Mike Morris, goes in and puts a plat of where everything is going to be put in, and how the property is beforehand. I don't have any of that with me like that, but it is something I could submit to ConCom, anything we have to that extent.

**Suzanne Egan:** Did you also submit every single thing that you did to the property, like modifications to the property?

**Chantal Bill:** That would be in our plans as to what was done for the race, as well as what the entity that came in and did the post remediation.

**Suzanne Egan:** That was the issue that we were asking. The last violator: what was done specifically to the property for the race. If you represent the entity that did that, it seems to me that is very important information for ConCom.

**Chantal Bill:** We did have a third party who did that work, who was selected by the land owner. However yes, we did pay over \$9000 to have that done and put it in the pre-race commission, and the land owner did sign off on that and say “you are fine. It is in the condition that it is acceptable.” That is how we operate all our races across the United States.

**Steve Langlois:** I’ll keep this meeting open, if you wish to come back before us at the end of the night.

**Request For Modified OoC #002-1092 – 42 Birchmeadow Road (Wojcicki)**

**John Paulsen, representing Mark Wojcicki. I’m a survey consultant:** We’ve provided a copy of the plan, showing what we are proposing.. shows the as-built location of the foundation, and the approved porch and deck locations, then it shows the proposed extension of the deck over so it goes across the whole front of the house. His buyer wants to add the deck across the rest of the front of the house. On this plan here, I’m showing that in orange. What is outlined in pink is what was approved, and the foundation is the foundation that was there. They just want to extend the deck, the same type of deck that was approved over in this area by the porch, and extend it across the front of the house. It is actually a little further away from the property line, but it is also about 8 inches closer to the edge of the water line. We seek permission to extend that deck across.

**Kinsey Boehl:** The deck was originally submitted and approved as a waiver, I believe, is that right, because it is within the 35 foot buffer?

**John Paulsen:** I don’t have all the details with me, and that was quite a while ago.

**Kinsey Boehl:** It appears, just by looking at the plan, that is what had to have happened.

**John Paulsen:** Yes, but this is the accurate location of what was approved. The foundation is in. It was built within an inch of where it was approved to be built. The deck that is there was going to be pervious, so there were not any concerns about it. But we had to move the building back, so that it was beyond the buffer setback, but the deck was not an issue. I believe it was a waiver.

**Steve Langlois:** So John, if there was a waiver pulled, and it was passed, this would also require a waiver?

**John Lopez:** It would require a waiver, and remember, this is for a modified order of conditions, so a modified order is agreeable to DEP, assuming the commission defines the modification as minor. If the applicant were to request a modified order for the addition on the house, that would not be minor, but this is a deck. So the issue in front of the commission is, is it minor or is it not? If it is, the ConCom could approve it with the condition that the applicant submit a modified waiver request, pursuant to the regulations that would be entered into the record, and that the time for the request for a Certificate of Compliance, the as-built plans would not just reflect the approved modification but also include his documentation. The deck will be approximately 150 square feet, and it is pervious. I think it is a minor modification.

**Michael Bik:** I don’t foresee this being a big issue. I think it is minor.

**Suzanne Egan:** I guess I’d rely on the agent’s recommendation as to whether it was minor or not.

**Kinsey Boehl:** Based on what the wetlands regulation says regarding waivers, I’d think that it is not minor.

**Alan Corey:** I would have to agree with John and go with his recommendation.

**John Lopez:** The ConCom could also ask the applicant if his client would be interested in planting a few more winterberry or something, to compensate for the waiver.

**Steve Langlois:** Has work been done on the lake front, such as pulling up all that tar and getting all that junk out of there?

**John Paulsen:** They pulled out the pavement. I don't think they've done anything else along the lake front. They put the silt barrier down, and the only thing they did was pull the pavement out from the water area. But there is a note on the plan that they could only do work down there in low water situations.

**Steve Langlois:** Well, we have three yays and one nay. The only problem I have is waivers. I guess you can have 5 waivers on a job, as long as they are considered minor. I don't think it's a big deal.

**Motion was made by Suzanne Egan to grant the minor modification, provided there is additional planting of four native shrubs. The motion was seconded by Alan Corey. Vote was passed.**

#### **FREEDOM OF INFORMATION ACT REQUEST- 68 LAKE ATTITASH ROAD (DOW)**

**John Lopez:** This is regarding the letter from DEP to Debra Dow. The Enforcement letter from DEP to Ms. Dow. This was in response to the applicant's appeal. DEP ruled that the appellant was not an aggrieved abutter, they did not uphold the appeal, and it was dismissed. This is simply to bring the commission up to date on correspondence.

As a follow up to Ms. Dow, we have a Freedom of Information Act request that was initiated by Ms. Dow. The commission received a copy of the e-mail. The response was provided. I think this has been solved.

Also, an appeal on a Negative Determination of Applicability: the appellant has appealed DEP's dismissal of her (Ms. Dow) as an aggrieved abutter. The appellant has appealed that. There were a number of dates proposed for a hearing in the DEP Office of Appeals and Resolution. The appellant could only attend either the Dec. 22 or the Dec. 23 date. That may interfere with some people's Christmas plans, so the hearing may be delayed to January. Bottom line is, there is no further action required by the commission. I will attend the hearing. We just needed to bring this to the commission's attention.

#### **ENFORCEMENT ORDER - 94 LAKE ATTITASH ROAD (JAMES RYAN)**

**John Lopez:** This is in reference to an enforcement order that was issued for the unauthorized paving of either a driveway or an easement, I'm not quite sure which it was. The enforcement order was served, the property owner is here tonight to explain things.

**James Ryan, 92 Lake Attitash Road:** I bought this property in 1962. It burned down in 1973. Here is a picture of it. We built the house on the right of way. The driveway is the same as it was 40 years ago when I built the house. The situation is very simple. Miss Nardone owns the property across the street from me. There is a six foot fence and a wall that is out in the street. I had it surveyed 4-5 years ago, I put in to the DPW to see if they'd straighten it out, but all the trash and everything flows down the hill like a funnel going right by my place. When the town hot topped 2 years ago, putting in a new road in front of my property, they covered a berm that used to hold the water from coming down the property.

**Steve Lopez:** John, why is there an enforcement order?

**John Lopez:** There is an enforcement order because the paving of this driveway is within buffer zone to lake Attitash. Any activity within 100 feet to the lake is subject to review by ConCom and the DEP, pursuant to the wetlands protection act, and the Amesbury Wetlands Ordinance.

An enforcement order was issued requiring the applicant to submit a Notice of Intent for the work.

**Steve Langlois:** Do you plan on filing a Notice of Intent, sir?

**James Ryan:** I think Mr. Lopez filed it, yes.

**John Lopez:** Yes, but it appears to be on the wrong form. It was an attempt. I offered to assist the applicant in drafting a Notice of Intent, providing the commission agreed. I think one of the key issues here, as Mr. Ryan explained, is that the DPW recently paved Lake Attitash Road...2 years ago. Mr. Ryan explained that, prior to that, there was a berm over the road which diverted all water away from his property and lake Attitash. When Lake Attitash Road was repaved, that berm disappeared. I discussed this issue with DPW director, Mr. DeMarais. He was made aware of the situation. He does not dispute that. He said unfortunately this was never brought to his attention. He said he could go out and create a berm to rectify this situation by the end of this week, if the commission feels it is appropriate. It still doesn't remove the necessity for a Notice of Intent, but I think that would be a quick remedy at least the runoff down Mr. Ryan's property.

**Steve Langlois:** Do I remember that Mr. Ryan excavated the existing asphalt driveway?

**John Lopez:** It was removed and laid down. It was not increased in size.

**Mr. Ryan:** I think Mr. Bik needs to recuse himself, because he and this lady have been friends for 10-15 years.

**Steve Langlois:** You realize you are here because you did this without getting a permit.

**Mr. Ryan:** I was in Florida. I had the guy do it the week I was gone. So he said yes. I told him to take care of all the permits and what not. He said yes. He did it on Saturday, and I returned the following Tuesday. This is what I found had happened.

**Steve Langlois:** Mr. Lopez is willing to help you fill out this paperwork, a Notice of Intent.

**John Lopez:** I can fill out the necessary paperwork. Now you are going to be away?

**Mr. Ryan:** I'll be gone until May.

Mr. Ryan's grandson is present and offered to stand in for his grandfather, contact John, address this offline, and most likely have something for the commission Jan. 5. Contact me on the website, David Ryan.

#### **DEP #002-1095 – (COUILLARD) NOTICE OF INTERVENTION, 56-58 SOUTH HAMPTON ROAD**

**John Lopez:** This is the enforcement order for 56-58 South Hampton Road, for violations of the 10 day appeal period. No further action and everything is status quo, the enforcement order remains in place.

#### **DEP# 002-1095 (COUILLARD) ENFORCEMENT ORDER, 56-58 SOUTH HAMPTON ROAD**

**John Lopez:** This is the Notice of Intervention. DEP has asked for additional information. The applicant is supplying DEP with that information. They have a specific number of days to reply. This is brought to the commission's attention, just for your edification. The applicant has 70 days to respond. The commission will note that the letter from DEP said that the project may be denied or altered substantially, or may be upheld. DEP just wants to base it's decision on additional information.

#### **NOMINATE / ELECT COMMISSION SECRETARY (AMESBURY CONSERVATION COMMISSION)**



**This item was tabled.**

**LETTER OF RECOMMENDATION (AMESBURY CONSERVATION COMMISSION OPEN SPACE SUBCOMMITTEE)**

**Suzanne Egan:** As a member of the Open Space Subcommittee, we have a letter.

**John Lopez:** I forwarded that letter to Mr. Bik asking him to print it out. Apparently he didn't see my e-mail

**Suzanne Egan:** Essentially the property that is adjacent to Woodsom Farm that is under agriculture land, so the city has the right of first refusal on it. Greenbelt has been working with the city on this and working with the open space subcommittee to urge the town to purchase the property, so that it will preserve more conservation land, provide bird watching and environmental habitat. So I think it would be appropriate for ConCom to make a motion to submit that letter to city council, under the name of the Chair, on behalf of the members supporting the purchase of the purchase of that property.

**Steve Langlois:** Basically, we're not saying the city of Amesbury is going to buy the land, but we're giving the mayor...

**Suzanne Egan:** No, we're supporting the mayor's proposal and supporting the city in buying the land under the right of first refusal. This would further the interests of this commission that we are charged with protecting.

**John Lopez:** The commission also has a letter from Essex County Greenbelt supporting and asking the commission to support this. This letter is dated Nov. 26, 2014.

Any development that would take place on this site would involve a fairly complicated wetland crossing. We know how complicated they can be. There is also the possibility that a wetland crossing could potentially impact hydrology and storm water drainage in the area. For those reasons, for wildlife reasons, for conservation and recreation and for storm water management, I think the commission would be well served by supporting the mayor's recommendation.

**Kinsey Boehl:** I need to recuse myself from this because I am an abutter. But if I could speak as a citizen, I'd also like to see the city purchase the property.

**Motion by Suzanne Egan that the commission submit the letter in support of the purchase of the property. Motion was seconded by Alan Corey. Vote was 4 yes, one recuse.**

**John Lopez:** Before we start, I have been asked by the TOUGH MUDDER people that, before we got to continued business, that the commission would entertain revisiting that issue for an additional few comments.

**Suzanne Egan:** I think it is fair to the rest of the people in the audience to table this to the end of the meeting, as intended.

**CONTINUED BUSINESS:**

**NOI #002-1107 – 56-58 SOUTH HAMPTON ROAD, LOCKE HILL LOT 4 (COUILLARD)**

**NOI #002-1106- 56-58 SOUTH HAMPTON ROAD, LOCKE HILL LOT 5 (COUILLARD)**

**NOI #002-1105 – 56-58 SOUTH HAMPTON ROAD, LOCKE HILL LOT 6 (COUILLARD)**

**NOI #002-1114 – 56-58 SOUTH HASMPTON ROAD, LOCKE HILL LOT 12 (COUILLARD)**

**NOI #002-1103 – 56-58 SOUTH HAMPTON ROAD, LOCKE HILL LOT 13 (COUILLARD)**

**John Lopez:** I suggest that all of these DEP filings be opened all at once. (agreed).

The commission has at the previous hearing have remanded to BSC to review the amended plans pursuant to their original review. The BSC report dated Dec. 2, 2014 is that. There are a number of issues that remain outstanding. However, these are at the commission's discretion. The commission is also in receipt of an e-mail from the applicant's attorney, dated Dec. 1, 2014 requesting that the commission close the hearing and approve the Notices of Intent. This project is also subject in an indirect way to the Notice of Intervention in that this property would require a wetlands crossing. That hearing is being reviewed by DEP. As we've already discussed, DEP is requesting additional information. So the commission could do any number of things: it could approve if you feel the project is ripe for approval and that the DEP raised issues are insignificant; it could remand to the applicant for further proceedings consistent with BSC's report; or it could simply continue this pending the results of DEP's intervention.

**Suzanne Egan:** Was there a particular reason why we didn't have BSC do the storm water drainage? It seems to me that typically, when we retain a third party consultant to review a project, that it would go without saying that they would review all issues that ConCom would have jurisdiction over for a particular project.

**John Lopez:** I think the reason why was because, in discussing this further with DEP staff, the applicant has submitted five Notices of Intent for five single family houses. A single family house is exempt from Massachusetts storm water standards. You don't need to have it reviewed under the storm water standards for a single family house. If this were proposed as a subdivision, it would be subject to the storm water review.

**Alan Corey:** Something to note is that all of these houses are listed as single family homes, but in all the paperwork, they are still referenced as Locke Hill subdivision. So while the applicant is saying that they are single family homes, in the same application they say it is a subdivision. The PLB approved it as a subdivision.

**Suzanne Egan:** I would support a storm water drainage analysis.

**Motion to retain BSC to provide us with a storm water drainage analysis for all of the Notices of Intents for 56-58 South Hampton Road. These are the only properties that have wetland impact. Also to continue this hearing to the Feb. 2 meeting, and within that motion, ask if BSC could provide their report at least 3 weeks prior to the Feb. meeting. Motion was seconded by Michael Bik.**

**Kinsey Boehl:** There are other items that are still outstanding that have not been addressed by the applicant.

**John Lopez:** So if the commission is supportive of this, you can simply remand to the applicant for further proceedings consistent with this report.

**Kinsey Boehl:** So moved.

**Suzanne Egan:** I second.

**Vote was unanimous.**

**NOI #002-1109 – 146, 149 AND 150 PLEASANT VALLEY ROAD (CHOREBANIAN / CLARK)**

**This agenda item was withdrawn by applicants.**

**NOI #002-1096 – 127 KIMBALL ROAD (SCIMONE)  
CONTINUED TO FEBRUARY 2, 2015**

**NOI # 002-1088 – 12 OLD MERRILL STREET (Toth)**  
**CONTINUED TO FEBRUARY 2, 2015**

**NEW BUSINESS:**

**NOI #002-1110 – 159 KIMBALL ROAD (DAAMEN)**

**John Lopez:** The applicant is here tonight. This is a Notice of Intent for a proposed garage. You'll recall that at the Oct. meeting, a Certificate of Compliance was approved and issued for the renovation of a house. The approved plan included the aforementioned garage. The garage was never built. One of the prospective buyers didn't want it. New buyers have emerged that want a garage, so they submitted a Notice of Intent for essentially the same garage that was approved under the previous Order of Conditions.

Same plan...same everything. The date of that approval was about a little over a year ago. The request for a Certificate of Compliance was actually continued for about 3-4 hearings while the applicant was waiting on word from the prospective buyers whether they wanted the garage or not. They finally pulled the plug on it, and that is when we issued the Certificate of Compliance, bringing that order to a complete closure.

**Motion was made by Michael Bik to approve the building of a garage at 159 Kimball Road.**

**Motion was seconded by Alan Corey. Vote was unanimous.**

**Motion to close the hearing was made by Michael Bik and seconded by Suzanne Egan. Vote was unanimous.**

**REQUEST FOR CoC – 62 HAVERHILL ROAD, EZ CAR WASH LLC (STEPHEN DOHERTY)**

**John Lopez:** Recommend the request be denied due to lack of information.

**Motion made by Michael Bik to continue this hearing to July 6, 2015. Motion was seconded by Kinsey Boehl. All in favor.**

**Continuance of:**

**ENFORCEMENT ORDER FOR 56 SOUTH HUNT ROAD – TOUGH MUDDER (HEARD EARLIER TONIGHT AND EVENTUALLY POSTPONED TO END OF MEETING)**

**Steve Langlois:** The commission took a ten minute break and has now reconvened at 8:55 P.M. We are going to reconvene discussing the enforcement order for 56 South Hunt Road.

**Mary Rimmer:** I spoke in the hall with Mark Devine from Waste Management, and we realize that those three holes that have been excavated are now full of water right now, and he has a concern about liability, which once mentioned to me became a concern for all of us. So what we'd like to be able to do is to ask the commission to grant John (Agent) the ability to work with Mark and I to basically de-water the holes to an area that is vegetated, probably to a silt sack with a pump in the holes to de-water, then backfill the holes now. We'll still come back in the spring, I'm still coming in with a restoration plan. We just want to alleviate where there are excavated pits of standing water that are there all winter that could be a hazard to someone. We're asking you to let John work with us now, because we want to get in there and do it asap, and backfill those with the same material that was excavated to make the holes. No material was brought into the site.

**Suzanne Egan:** I don't feel comfortable voting on that, but I do feel comfortable in delegating to John the ability to review the plans, and if they are to his satisfaction, then to work with them. But there has to be a written submission showing the work.

**Steve Langlois:** So that is what we will do, John, is passing it on that you work with them.

**Suzanne Egan:** So I would suggest that if there were something that you view as not being within his capacity to review, that we also delegate the authority to John to enter into a third party contract with a consultant to review those plans.

**John Lopez:** I can also confer with my colleague at DEP.

**Motion was made by Kinsey Boehl that LEC Environmental submit a plan to fill three excavation pits on Waste Management property, and for John to review that and if he sees it is outside of his expertise, to contract with a third party to review this and if it is ok, John can approve it. Motion was seconded by Suzanne Egan. Vote was unanimous.**

**Enforcement Order on 12 South Hunt Road... continued from earlier in tonight's meeting:**

**Mary Rimmer, Rimmer Environmental Consulting, representing Amesbury Land**

**Associates and Event Partners:** In order to meet the schedule that we had discussed with you earlier tonight, we would like to be able to get some general consensus from the commission on the approach for the restoration, do a similar type of motion where we work directly with John Lopez to get a more substantive approval of a written plan of restoration measures that I will describe to you now. We can then, later this week, take to a contractor to try to get some prices for completing the restoration, so that the parties will understand what their economic burden will be to complete the restoration and be able to make a decision before Dec. 15 as to whether or not the deal that they described will be able to go through. So if you bear with me, I'll describe what I found on the site and focus on those areas which I think require the restoration efforts. There were about 17 different areas where the trail crosses wetlands, and only about 7 of those areas I recommend some kind of action take place. The other areas either no action is required, or the trail with ruts cannot be determined to be from the Spartan Race or by some other activities. On the Margaret Rice Park parcel, we don't recommend any restoration measures are proposed. The Goodwins Creek parcel, again, couldn't determine whether the trail conditions had to do with races that occurred or from other activities, so nothing is proposed there either. Able Realty parcel had just one area where the trail had been widened where there are two puddles, and it was widened to avoid the larger puddle. I recommend is to simply abandon the other section of trail, which can be done with brush or logs, so that section of trail is no longer used. On the Waste Management site, Tough Mudder is handling the pits. The only other area on that site was this area with a stream crossing. I have photos of that area where there are remnants of a footbridge, pallets and such put into the stream. We will simply take that debris out of the stream. There is some erosion on the trail approaching the stream, where it comes off of the land fill and down to that stream. It needs a little gravel to fill in that rut on one side. A little bit of regarding on the other bank where some of the bank has been disturbed. Mostly in this area, we are looking at removing inappropriate material out of the water body. The Merrimac Landing Conservation area had a couple of areas of concern. One area shows the bank being disturbed and some materials stockpiled. It needs cleaning up, regarding on both banks to match each other, and some plantings to re-establish the trail width at about a 5 foot width instead of the current width. That's a relatively simple fix.

A couple relatively minor areas where the trail has been significantly rutted and needs to be regarded. That can be done very easily with a small bobcat to re-grade a section of the trail. The



most significant areas includes an area about 300 feet long that goes through a very mucky, wooded swamp. That area will require some restoration plantings come the spring. But some measures can be taken over the winters months, where the ground is frozen, if you need to get equipment access in there, it is good to do it during the winter, to restore the bank where it has been badly degraded from just the number of bodies crossing at that location. We'll establish a more natural stream channel, using as much of the existing material that is onsite as possible without brining in new fill material. Then planting the banks, perhaps using core fiber logs or some kind of geo tech type material to create that bank along with some plantings. This area, if left alone, a lot of it will come back on it's own in the spring. I will recommend that we leave the pit open that has been constructed in front of that stream. I know this area was excavated, but I don't know why. We could fill it in, we could leave it, I think leaving it might provide some habitat. The depth is probably at least 2 feet deep. The plan will include suggested species of plantings.

**Suzanne Egan:** What I had in mind was a written plan showing all of what you've just talked about.

**Mary Rimmer:** I have that, the details to go with these, showing the impact areas, and I have a written plan describing these areas in text with the recommendations for each. There are photos keyed to the GPS locations and keyed to the index, so someone can cross-reference. Also reasons why that particular area will not be remediated.

**Kinsey Boehl:** Why is it we don't have the report?

**Mary Rimmer:** We just ran out of time in getting the field work and mapping done, and getting the report written in the time frame that was provided with the holiday weekend, etc. along with weather delays and difficulty and delays in getting access to the property. I can provide at least a draft form to you tomorrow.

**Suzanne Egan:** My question to John would be whether or not you think you have the ability to review a plan like that and make a decision?

**John Lopez:** I do. It would be appropriate. I see no issue. But I am a little confused. How does Spartan fit into all this? I believe they are requesting to be removed from the order?

**Suzanne Egan:** This is my thinking on this. We've had a request to take some action within a certain period of time for I believe two of the violators. So one way we can do that is to say "ok, submit the written plan to John and you can look at it, and that can be the potentially approved remediation plan by that time certain. Well, that doesn't affect Spartan, which would be another violator in this, and they would still be under the same enforcement order that they are now. If they are not a party to this and they are not joining in this plan, then they are out of this plan, but they still have to have the responsibility to comply with the enforcement order that was issued against them. So this would be for those two (Amesbury Land Associates and Event Partners). So we'd deal with it in two separate ways, because we issued different enforcement orders for each individual violator. **Motion was made by Suzanne Egan:** we have two violators (Amesbury Land Associates and Event Partners) that have requested that the board take some action with respect to the enforcement order that has been issued against them. That is to give them an approval for a remediation plan by a date by Dec. 15, to give them a notion as to how they will be able to comply with that enforcement order, and that is what we are doing with this. It doesn't completely resolve the enforcement order, but it is a step towards having that resolved. So with regard to Spartan Race, they are a separate violator and can take whatever action they choose, but also are compelled to comply with the enforcement order and we can work with

them. They need to take whatever steps and are subject to the same obligations as the other two violators.

So I make a **motion that Amesbury Land Associates and Event Partners shall submit a written plan to John outlining the manner in which the enforcement order will be remediated, for John to review, and he can make a determination as to whether or not that is sufficient.**

**Motion was seconded by Alan Corey. Vote was unanimous.**

**John Lopez:** This hearing is not closed yet. The Spartan people would like to address the commission.

**Darren Braham, in house counsel:** I just want clarification on the motion that was passed. Is it the case that Amesbury Land Associates and Event Partners will submit a report? It feels like Spartan was being circumvented, because we haven't received any information at all on this, other than confirmation of the order. We would like to see that report that reflects what damage there is, and also we'd like to submit information to the extent that any damage may have been caused by Spartan or any other violators on the property. Because right now, there is still outstanding information that we would like to submit, whether it be land owners or other violators.

**Steve Langlois:** So you are asking to be included in all correspondence? That's ok.

**Suzanne Egan:** So you are under an enforcement order, also. So you have an obligation to comply with that.

**Darren Braham:** Correct, but the wetland scientist is putting forward information on the damage and remediation efforts. We're not clear what else would be required by Spartan, other than what has been proposed. It still isn't clear if there is anything beyond what the wetland scientist is proposing though.

**Steve Langlois:** So far, John, Ms. Rimmer has represented one part of the problem. The Tough Mudder issue is another matter altogether, and they would have their own wetlands scientist. Now what about Spartan?

**John Lopez:** Spartan, because they were a party to this enforcement order...

**Suzanne Egan:** Spartan has the obligation to take the steps required under our enforcement order to you, and to my understanding, you haven't done anything yet, is that right?

**Spartan's female counsel:** We have requested from the other two violators that are under the same enforcement order as we have to speak with their folks and see their orders. So I think for clarification, we are going to work with them to be involved in the submission that is going to go to John, and work with them through that submission, to make sure that we can rectify the violations.

**Suzanne Egan:** Because, to a certain extent, your agreements with the other violators is not necessarily a concern of the ConCom, but what we care about is that the area be remediated. So whatever manner that takes, that is working with John.

**Motion was made by Kinsey Boehl to close the meeting of the ConCom on Dec. 1, 2014.**

**Motion was seconded by Suzanne Egan. All in favor.**

**Meeting was adjourned at 9:23 P.M.**